

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

SEP 05 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

Nos. 11-90188, 11-90189,
11-90190, 11-90191, 12-90004
and 12-90005

ORDER

PREGERSON, Circuit Judge¹:

Complainant, a pro se litigant, filed two misconduct complaints naming four circuit judges and two district judges. He alleges that one of the district judges improperly dismissed his case, and that three of the circuit judges disallowed the filing of his appeal based on a pre-filing order. He believes the other circuit judge and other district judge improperly approved of those rulings. This charge relates directly to the merits of the judges' rulings and therefore is not cognizable in a misconduct proceeding. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant further alleges that the judges discriminated against him in these rulings, but adverse rulings are not proof of discrimination. See, In re

¹ This complaint was assigned to Circuit Judge Harry Pregerson pursuant to 28 U.S.C. § 351(c).

Complaint of Judicial Misconduct, 631 F.3d 961, 963 (9th Cir. 2011). Because complainant offers no other evidence to support his claim, these charges must be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

In 2009 the Judicial Council issued a pre-filing order against complainant noting that he had filed more than twenty judicial misconduct complaints since 2003, “all of which have been dismissed because complainant’s allegations were conclusory and/or related to the merits of the subject judges’ rulings.” See In re Complaint of Judicial Misconduct, Nos. 08-89009+ (9th Cir. Jud. Council 2009). Although that pre-filing order has expired, complainant is reminded that a “complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints.” Judicial-Conduct Rule 10(a); see also In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009).

DISMISSED.